

## **REMARKS**

Regarding claims 9-10 the Examiner has requested the following changes to the claims:

### Claim 9

lines 1 and 10, change "persons" to --person's--;

line 6, insert --sheet--between "foil" and "overlapping";

line 7, insert --sheet--between "foil" and "to be";

line 10, insert --sheet--between "foil" and "to a";

### Claim 10

line 1, the term --first--or --next--should appear before "hair foil".

Applicant has amended the claims accordingly.

The Examiner has rejected claims 9-10 as being obvious over Lee in view of Awaijane. The Examiner states that in figures 1-4, Lee discloses a pop-up dispenser (10) for dispensing sheets of aluminum foil, as described in column 1, lines 44-48. Each sheet has a lead portion and a trailing portion. The lead portion of the first sheet (30) of aluminum foil extends through a dispensing orifice (elongated opening 14) to an elevation above that of the dispensing unit (10), as shown in Figure 3. The trailing portion of the first foil (30) overlaps the lead portion of the next hair foil to be dispensed, as discussed in col. 1, lines 10-19 and col. 2, lines 48-51. Withdrawing the first sheet of foil (30) pulls the next sheet, as discussed in col. 1, lines 19-23. The withdrawing of the first sheet of foil (30) can be achieved with one hand. The first foil sheet (30) can be applied to a person's hair immediately after being dispensed without any further

preparation if the foil sheet is already the proper size for applying to hair. The Examiner states that it would have been obvious to make the foil sheets dispensed by the dispenser of Lee the proper size for applying to hair, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Claim 9 has been amended to state a method of putting hair foil in a person's hair consisting essentially of: removing a first sheet of hair foil from a pop-up dispenser. The sheet of hair foil has a lead portion and a trailing portion. The lead portion of the sheet of hair foil extends through a dispensing orifice to an elevation above that of the dispensing unit. The trailing portion of the first hair foil sheet overlaps with a lead portion of a next hair foil sheet to be dispensed. A user pulls the next hair foil sheet through the orifice of the dispenser by withdrawing the first sheet of hair foil. The first hair foil sheet is then applied to a person's hair.

Lee relates to a dispensing apparatus for dispensing tissues and aluminum foils through an opening. Lee states that one of the methods of dispensing tissues is through a restricted opening made of a thin plastic sheet or film having a slit across, such that the tissue to be dispensed is slightly pinched between the slit formed by the plastic sheet until extracted by the user. Col. 1, lines 10-19. The method described by Lee uses a plurality of elastic strings having first and second ends. The first ends are attached to one end of the opening and the second ends are attached to an opposite end of the opening. The plurality of

elastic strings is configured to form a slit for holding the tissues to prevent falling into the carton. Figure 3 illustrates a tissue 30 protruding through the opening formed by the first and second elastic strings 16a and 16b. The tissue 30 is firmly placed in between the strings 16a and 16b and does not drop back into the carton 11. When the tissue 30 is pulled from the carton 11, the pulling force of the tissue 30 will cause the first and the second elastic strings 16a and 16b to twist against each other. Once the tissue 30 completely exits the carton, due to the elastic characteristics of the strings, the elastic strings 16a and 16b will untwist themselves to their original shape and will hold the next tissue in place.

Lee does not teach a method for putting hair foil in a person's hair. Further Lee's method of dispensing tissues and foil does not consist essentially of: removing a first sheet of hair foil from a pop-up dispenser. The sheet of hair foil has a lead portion and a trailing portion. The lead portion of the sheet of hair foil extends through a dispensing orifice to an elevation above that of the dispensing unit. The trailing portion of the first hair foil sheet overlaps with a lead portion of a next hair foil sheet to be dispensed. A user pulls the next hair foil sheet through the orifice of the dispenser by withdrawing the first sheet of hair foil. The first hair foil sheet is then applied to a person's hair. Lee requires and makes essential that elastic strings twist and untwist to assist the user in withdrawing the tissue or foil and then withdrawing a second sheet of tissue or foil.

The Examiner states that Lee does not disclose the application of foil to a person's hair. Awaijane discloses the application of foil to a person's hair in

column 6, lines 35-59. It would have been obvious to apply the foil of Lee to a person's hair, as taught by Awaijane, in order to highlight only selected strands of hair.

Col. 6 lines 35-59 states, Now turning to FIGs. 6 and 7, the method for applying chemicals to the hair using the highlighting apparatus 100 will be further detailed. After removing an individual apparatus 100 from the dispenser box 500, the folded edge 114 is placed near the scalp 600 of a client 610. Individual strands of hair 620 are then selected by the hairdresser. Once the strands of hair have been selected, a brush 630 or similar apparatus is dipped into a chemical agent and applied to the strands of hair that are on or placed on the surface of hair highlighting apparatus 100. After the chemical agent has been applied to the selected strands 620, the brush is removed. Then the bottom or second sheet is removed and placed on top of the first sheet 110. This is shown in Fig. 7. The assembly 100 is supported by the hand of the hairdresser while the folded end 124 of the second sheet 120 is carefully removed from the assembly 100. This leaves the first sheet 110 in place with the folded edge 114 adjacent the scalp 600 of the client. The second sheet 120 is flipped and placed atop the first sheet 110 so that the folded edge 124 now is also adjacent the scalp 600 of the client 610. The arrows 700, 710, 720, 730 and 740 progressively show the flipping motion of the second sheet 120 as it is being removed from the assembly 100 and placed atop the first sheet 110.

Awaijane relates to a device for applying agents, such as coloring agents, to selected strands of hair, which includes a first sheet of foil, and a second sheet of foil. The first sheet of foil has a first folded end and a first free end. The second sheet of foil also has two ends, namely a second folded end and a second free end. The first sheet and the second sheet are arranged so that the first folded end wraps around the second free end of the second sheet, and so that the second folded end wraps around the first free end of the first sheet. This provides for thicker ends for easy pick up of the sheets and also keeps the sheets **together** as they are picked up. A plurality of the first and second sheet assemblies can be placed into a box for dispensing. Two sheets of material are placed adjacent one another, and then one edge of the two sheets of material is placed near the scalp of a person. Strands of hair are selected. Then chemicals are applied to the selected strands of hair. To form a sealed container, one of the two adjacent sheets is removed and placed atop the other sheet. The edges of the sheet can then be crimped together to form a sealed container.

Awaijane places two sheets together and both sheets are removed from the package together. The sheets are crimped together and are not removed and placed in the hair as described in claim 9.

Awaijane discusses the foil technique on the bottom of col. 1 to the top of col. 2. It is discussed that this technique requires great care and more than one pair of hands so that an assistant must be employed to hold the foils in place. It is expensive that extra time is necessary for cutting the sheets of foil and to holding them in place. This section discusses the problem that the present

invention solves. Awaijane tries to solve this problem in a totally different and inefficient way, and having knowledge of Lee, does not teach the present invention.

Awaijane discusses that many techniques have been used in the past to improve or ease the foil method of treating hair. In most cases an assistant is required either to hold the paddle, cut the foil, or to apply color. The device for applying chemicals to hair or the hair highlighting apparatus is much easier for a hairdresser to handle than previous methods such as using separate sheets of foil. The hair highlighting apparatus is thicker and easier to handle than the single separate sheet of foil previously used. Therefore, Awaijane teaches against a method for distributing separate sheets of foil as described by claim 9 of the present invention.

Awaijane teaches that two sheets are delivered in each hair highlighting apparatus. Once the individual hair highlighting apparatus is formed, it is stacked into a dispenser box. The dispenser box has a floor on which several hair highlighting devices are stacked. Awaijane teaches that an end of the box is removed to form the opened end 530. In operation individual hair highlighting apparatuses (that contain two sheets of foil) are removed one at a time by simply placing a finger on the top sheet of the hair highlighting apparatus and applying a slight force to move the edge of the individual hair highlighting apparatus out beyond the stack of these devices. Once the edge is moved beyond the stack, the folded end is pinched or grasped by the hairdresser. When the folded end is pinched, this added force keeps the free end of the

second sheet within the folded end. Typically, the hair highlighting apparatus is comprised of first and second sheets which are sufficiently light weight so that grabbing the folded end and removing the hair highlighting apparatus from the stack will not cause the first sheet to release from the interlocked second sheet.

Awaijane states that in the past hair highlighting was previously done by buying a number of sheets of foil. The sheets of foil were then cut to a desired dimension and stacked before the foiling operation would take place. The next step would be to take one sheet and place it near the scalp of the client. That first sheet would then be held in place while the strands of hair were selected and then a brush was used to apply the chemicals to the hair. The operator would then reach back to the stack of foils previously cut, located behind the hairdresser. Thus, while the hairdresser was holding one foil, they would be trying to pick yet another foil from a different location to add to the first foil.

Therefore, Awaijane teaches that in the prior art separate sheets of foil were cut and stacked and placed on a desk behind the hairdresser. There was no device in the prior art which would provide the user with a stack of properly sized sheets of haircoloring foil which could easily be dispensed as described in claim 9 of the present invention.

Awaijane further states that, when dimensioned properly, a savings of 20 to 30% of the foil is achieved. It is also felt that hairdressers will be willing to pay a premium for a dispenser full of appropriately dimensioned foils since it will save tremendous amounts of time.

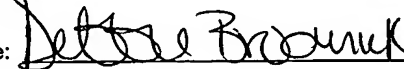
For the reasons stated above claims 9 and 10 are not obvious over Lee in view of Awaijane.

Applicant believes the application is now in condition for allowance.

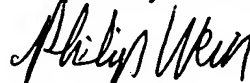
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